

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 205
94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, March 29, 2007, with recommendation that the Senate Committee Substitute do pass.

0504S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 260.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as follows:

260.392. 1. As used in this section, the following terms mean:

(1) "Cask", all the components and systems associated with the container in which spent fuel, high-level radioactive waste, highway route controlled quantity, or transuranic radioactive waste are stored;

(2) "High-level radioactive waste", the highly radioactive material resulting from the reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations, and other highly radioactive material that the Nuclear Regulatory Commission has determined to be high-level radioactive waste requiring permanent isolation;

(3) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as amended, a quantity of radioactive material within a single package. Highway route controlled quantity shipments of ten miles or less within the state are exempt from the provisions of this section;

(4) "Low-level radioactive waste", any radioactive waste not classified as high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel, and classified as low-level radioactive

20 waste by the U.S. Nuclear Regulatory Commission, consistent with
21 existing law. Shipment of all sealed sources meeting the definition of
22 low-level radioactive waste, shipments of low-level radioactive waste
23 that are within a radius of no more than fifty miles from the point of
24 origin, and all naturally occurring radioactive material given written
25 approval for landfill disposal by the Missouri department of natural
26 resources under 10 CSR 80-3.010 are exempt from the provisions of this
27 section. Any low-level radioactive waste that has a radioactive half-life
28 equal to or less than one hundred twenty days is exempt from the
29 provisions of this section;

30 (5) "Spent nuclear fuel", fuel that has been withdrawn from a
31 nuclear reactor following irradiation, the constituent elements of which
32 have not been separated by reprocessing;

33 (6) "State-funded institutions of higher education", any campus
34 of any university within the state of Missouri that receives state
35 funding and has a nuclear research reactor;

36 (7) "Transporter", the company responsible for transportation by
37 truck or rail of the spent fuel, high-level radioactive waste, highway
38 route controlled quantity shipments, transuranic radioactive waste, or
39 low-level radioactive waste;

40 (8) "Transuranic radioactive waste", defined in 40 CFR Part
41 191.02, as amended, as waste containing more than one hundred
42 nanocuries of alpha-emitting transuranic isotopes with half-lives
43 greater than twenty years, per gram of waste. For the purposes of this
44 section, transuranic waste shall not include:

45 (a) High-level radioactive wastes;

46 (b) Any waste determined by the Environmental Protection
47 Agency with the concurrence of the Environmental Protection Agency
48 administrator, that does not need the degree of isolation required by
49 this section; or

50 (c) Any waste that the Nuclear Regulatory Commission has
51 approved for disposal on a case-by-case basis in accordance with 10
52 CFR Part 61, as amended.

53 2. Any transporter that ships high-level radioactive waste,
54 transuranic radioactive waste, highway route controlled quantity
55 shipments, spent nuclear fuel, or low-level radioactive waste through
56 or within the state shall be subject to the fees established in this

57 subsection, provided that no state-funded institution of higher
58 education that ships nuclear waste shall pay any such fee. These
59 higher education institutions shall reimburse the Missouri state
60 highway patrol directly for all costs related to transport escorts. The
61 fees for all other shipments shall be:

62 (1) One thousand eight hundred dollars for each cask
63 transported through or within the state by truck of high-level
64 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
65 highway route controlled quantity shipments. All casks of high-level
66 radioactive waste, transuranic radioactive waste, spent nuclear fuel or
67 highway route controlled quantity shipments transported by truck are
68 subject to a surcharge of twenty-five dollars per mile for every mile
69 over two hundred miles traveled within the state;

70 (2) One thousand three hundred dollars for the first cask and one
71 hundred twenty-five dollars for each additional cask for each rail
72 transport through or within the state of high-level radioactive waste,
73 transuranic radioactive waste or spent nuclear fuel;

74 (3) One hundred twenty-five dollars for each truck or train
75 transporting low-level radioactive waste through or within the
76 state. The department of natural resources may accept an annual
77 shipment fee as negotiated with a shipper or accept payment per
78 transport or shipment.

79 3. All revenue generated from the fees established in subsection
80 2 of this section shall be deposited into the environmental radiation
81 monitoring fund established in section 260.750 and shall be used by the
82 department of natural resources to achieve the following objectives and
83 for purposes related to the transport or shipment of high-level
84 radioactive waste, transuranic radioactive waste, highway route
85 controlled quantity shipments, spent nuclear fuel, or low-level
86 radioactive waste, including, but not limited to:

87 (1) Inspections, escorts, and security for waste shipment and
88 planning;

89 (2) Coordination of emergency response capability;

90 (3) Education and training of state, county, and local emergency
91 responders;

92 (4) Purchase and maintenance of necessary equipment and
93 supplies for state, county, and local emergency responders through

94 grants or other funding mechanisms;

95 (5) Emergency responses to any transportation incident
96 involving the high-level radioactive waste, transuranic radioactive
97 waste, highway route controlled quantity shipments, spent nuclear fuel,
98 or low-level radioactive waste;

99 (6) Oversight of any environmental remediation necessary
100 resulting from an incident involving a transport of high-level
101 radioactive waste, transuranic radioactive waste, highway route
102 controlled quantity shipments, spent nuclear fuel, or low-level
103 radioactive waste. Reimbursement for oversight of any such incident
104 shall not reduce or eliminate the liability of any party responsible for
105 the incident; such party may be liable for full reimbursement to the
106 state or payment of any other costs associated with the cleanup of
107 contamination related to a transportation incident;

108 (7) Administrative costs attributable to the state agencies which
109 are incurred through their involvement as it relates to the transport or
110 shipping of high-level radioactive waste, transuranic radioactive waste,
111 highway route controlled quantity shipments, spent nuclear fuel, or
112 low-level radioactive waste through or within the state.

113 4. Nothing in this section shall preclude any other state agency
114 from receiving reimbursement from the department of natural
115 resources and the environmental radiation monitoring fund for services
116 rendered that achieve the objectives and comply with the provisions of
117 this section.

118 5. The department of natural resources in coordination with the
119 department of health and senior services, and the department of public
120 safety, may promulgate rules necessary to carry out the provisions of
121 this section.

122 6. Any rule or portion of a rule, as that term is defined in section
123 536.010, RSMo, that is created under the authority delegated in this
124 section shall become effective only if it complies with and is subject to
125 all of the provisions of chapter 536, RSMo, and, if applicable, section
126 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
127 and if any of the powers vested with the general assembly pursuant to
128 chapter 536, RSMo, to review, to delay the effective date, or to
129 disapprove and annul a rule are subsequently held unconstitutional,
130 then the grant of rulemaking authority and any rule proposed or

131 adopted after August 28, 2007, shall be invalid and void.

132 7. All funds deposited in the environmental radiation monitoring
133 fund through fees established in subsection 2 of this section shall be
134 utilized, subject to appropriation by the general assembly, for the
135 administration and enforcement of this section by the department of
136 natural resources. All interest earned by the monies in the fund shall
137 accrue to the fund.

138 8. All fees shall be received by the department of natural
139 resources prior to transport.

140 9. Notice of any transport of high-level radioactive waste,
141 transuranic radioactive waste, highway route controlled quantity
142 shipments, or spent nuclear fuel through or within the state shall be
143 provided by the transporter to the governor's designee for advanced
144 notification, as described in 10 CFR Parts 71 and 73, as amended, prior
145 to such transport entering the state. Notice of any transport of low-
146 level radioactive waste through or within the state shall be provided
147 by the transporter to the Missouri department of natural resources
148 before such transport enters the state.

149 10. Any transporter who fails to pay a fee assessed under this
150 section, or fails to provide notice of a transport, shall be liable in a
151 civil action for an amount not to exceed ten times the amount assessed
152 and not paid. The action shall be brought by the attorney general at
153 the request of the department of natural resources. If the action
154 involves a facility domiciled in the state, the action shall be brought in
155 the circuit court of the county in which the facility is located. If the
156 action does not involve a facility domiciled in the state, the action shall
157 be brought in the circuit court of Cole County.

158 11. Beginning on December 31, 2008, and every two years
159 thereafter, the department of natural resources shall prepare and
160 submit a report on activities of the environmental radiation monitoring
161 fund to the general assembly. This report shall include information on
162 fee income received and expenditures made by the state to enforce and
163 administer the provisions of this section.

164 12. The provisions of this section shall not apply to high-level
165 radioactive waste, transuranic radioactive waste, highway route
166 controlled quantity shipments, spent nuclear fuel, or low-level
167 radioactive waste shipped by or for the federal government for military

168 or national defense purposes.

169 13. Under section 23.253, RSMo, of the Missouri Sunset Act:

170 (1) The provisions of the new program authorized under this
171 section shall automatically sunset six years after the effective date of
172 this section unless reauthorized by an act of the general assembly; and

173 (2) If such program is reauthorized, the program authorized
174 under this section shall automatically sunset twelve years after the
175 effective date of the reauthorization of this section; and

176 (3) This section shall terminate on September first of the
177 calendar year immediately following the calendar year in which the
178 program authorized under this section is sunset.

260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2**
12 **of section 260.392**. This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392**.

Section B. Because immediate action is necessary to enable both the
2 promulgation of rules pertaining to the implementation of this act and to preserve
3 the state's environment, section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and section A of this act shall be in full force and effect upon its passage and
7 approval.

✓